

MACDONALD | FERNANDEZ LLP

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Attorneys for Plaintiff,
SIX4THREE, LLC

SUPERIOR COURT OF CALIFORNIA**COUNTY OF SAN MATEO**

SIX4THREE, LLC, a Delaware limited liability company,

Case No: CIV 533328

**VERIFIED STATEMENT OF
DISQUALIFICATION**
(Code Civ. Proc. § 170.3(c)(1))

Plaintiff,

vs.

FACEBOOK, INC., a Delaware corporation;
MARK ZUCKERBERG, an individual;
CHRISTOPHER COX, an individual; JAVIER
OLIVAN, an individual; SAMUEL LESSIN, an
individual; MICHAEL VERNAL, an individual;
ILYA SUKHAR, an individual; and DOES 1
through 50, inclusive,

Defendants.

STATEMENT

COMES NOW counsel for Six4Three, LLC, Plaintiff herein, objecting to the trial and any hearing before the Honorable V. Raymond Swope (the "Judge") pursuant to Code of Civil Procedure § 170.3(c)(1), and respectfully represents as follows:

1. Plaintiff's counsel filed a peremptory challenge pursuant to Code of Civil Procedure § 170.6 on July 3, 2019.

2. On July 9, 2019, the Judge entered an order striking the peremptory challenge solely upon the grounds that it is untimely because the action was assigned to the Judge for all

1 purposes on January 29, 2018, and that a party must exercise a peremptory challenge within
2 fifteen days of notice of an all purpose assignment, notwithstanding the fact that the within
3 peremptory challenge was filed by counsel. Notice of entry of the order was given on July 11,
4 2019.

5 3. Plaintiff and its counsel contend that the order is in error for the reasons set forth
6 in the Reply in Support of Peremptory Challenge filed on July 8, 2019, which is incorporated
7 herein by reference. In particular, the all-purpose-assignment rule does not apply to a
8 peremptory challenge filed by an attorney and, if the rule does apply to an attorney, the rule is
9 satisfied because the challenge was filed within fifteen days of notice of the all purpose
10 assignment to the attorney.

11 4. A writ of mandate will be taken pursuant to Code of Civil Procedure § 170.3(d).

12 5. This Statement of Disqualification is required pursuant to Code of Civil
13 Procedure § 170.3(c)(1).

14 6. Plaintiff reserves its right to seek disqualification for cause pursuant to Code of
15 Civil Procedure § 170.1.

16 **WHEREFORE**, Plaintiff and its counsel object to the Judge conducting a trial in this
17 matter or holding any hearings, including the case management conference set for July 19,
18 2019.

19 DATED: July 12, 2019

20 MACDONALD FERNANDEZ LLP

21 By: 

22 _____
23 RENO F.R. FERNANDEZ III
24 Attorneys for Plaintiff,
25 SIX4THREE, LLC

VERIFICATION

I, Reno F.R. Fernandez III, declare:

I am counsel for Six4Three, LLC, Plaintiff in the above-entitled matter. I made the aforesaid peremptory challenge.

I have read the foregoing Statement of Disqualification and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of July, 2019, in the City and County of San Francisco, California.

RENO F.R. FERNANDEZ III

1 Thomas P. Mazzucco, Esq.
2 Joseph S. Leveroni, Esq.
3 Murphy Pearson Bradley & Feeney
4 88 Kearny Street, 10th Floor
5 San Francisco, CA 94108
6 tmazzucco@MPBF.com

7
8 Counsel for Birnbaum & Godkin, LLP

9 ///

10 ///

11 As follows:

12 **BY ELECTRONIC SERVICE:** By electronically mailing a true and correct copy
13 through the Macdonald Fernandez LLP electronic mail system from to the email
14 addresses set forth above.

15 Executed on July 12, 2019, at San Francisco, California.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct and that I am employed in the office of a member of the bar of this Court, at
18 whose direction the service was made and that the foregoing is true and correct.

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Samantha G. Brown